IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Bail Appl..No. 3886 of 2007(H)

CRIME NO.128/07 OF SANTHANPARA POLICE STATION
CRMP.2256/2007 of DISTRICT COURT, THODUPUZHA

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PETITIONERS/ACCUSED NOS.1,3,4,5,6

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1. HASSAN RASHEED, S/O RASHEED,
PARAYIL HOUSE, POOPPARA KARA,
POOPPARA VILLAGE, IDUKKI DIST.

2. IQBAL, S/O MYDHEEN KOYA,
VALIYAPARAMBIL HOUSE, MURIKKUMTHODI,
POOPPARA KARA, POOPARA VILLAGE, IDUKKI DIST.

3. ASSI @ HASSAINAR, S/O MEERANKUTTY,
AIKKATH HOUSE, POOPPARA KARA,
POOPPARA VILLAGE, IDUKKI DIST.

4. SHAJAHAN, S/O HYDROSE,
PARAYANKUDIYIL HOUSE, POOPPARA KARA,
POOPPARA VILLAGE, IDUKKI DIST.

5. ALIAS @ ALI, S/O SAIDU,
MALIKAKUDIYIL HOUSE, POOPPARA KARA,
POOPPARA VILLAGE, IDUKKI DIST.

BY ADV. SRI.T.K.SAIDALIKUTTY
SRI.P.A.MOHAMMED ASHROF
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
SATHANPARA, IDUKKI DIST.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3886 of 2007

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Dated this the 28th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations in a crime registered, inter alia, under Sections 308 and 323 r/w. 149 I.P.C. The crux of the allegation is that there was an altercation between members of two taxi drivers union in relation to the right of parking vehicles in the taxi stand. The defacto complainant has alleged that he was attempted to be attacked fatally with dangerous stones and only providence helped him to avoid injury on the head. He was left with injury on the shoulder, it was alleged.

2. The learned counsel for the petitioners submits that the defacto complainant is an influential political leader and that is the sole reason why offence under Section 308 I.P.C. has been included in the F.I.R. All other offences alleged are bailable and there is actually no circumstances which can justify the inclusion of the allegation under section 308 I.P.C.

3. The learned Prosecutor opposes the application, but he also accepts that there is no case that the victim has suffered any serious injuries or to clinchingly suggest that the intention was to commit any offence beyond that punishable under Section 323 or 324 I.P.C. I am, in these circumstances, satisfied that this is eminently a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. Appropriate safeguards can be taken in the interests of a fair, efficient and expeditious investigation.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 5.7.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 6.7.07 and 7.7.07 and thereafter on all Mondays between 10 a.m. and 12 noon for a

period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 5.7.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 5.7.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 5.7.2007.

(R. BASANT)
Judge

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